

### **REMARKS**

Claims 41 – 53, 55 – 68, 70 – 78, 80 – 92, 94 – 98, 100 – 106, and 108 – 111 are pending in the application. Claims 41 – 49, 51 – 53, 55 – 56, 59 – 68, 70 – 76, 80 – 88, 90 – 92, 94 – 95, 98, 100 – 106, and 108 – 111 stand rejected under 35 U.S.C. 102(e) as being anticipated by Ginter (US Pre Grant Pub. 20040054630). Claims 50 and 89 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Ginter et al. in view of Knight (US Pat. 6,243,350), and claims 57, 77 and 96 stand rejected as being unpatentable over Ginter et al. in view of Yuen et al. (US Pat. 6,147,715).

The examiner is respectfully urged to reconsider the application and to enter the present amendment, and withdraw the rejections. Upon entry of the present amendment, claims 43, 53, 55 – 56, 80 – 92, 94 – 98, and 108 – 111 would be hereby canceled without prejudice, and claims 41 – 42, 44 – 51, 57 – 60, 67 – 68, 70 and 100 would be hereby amended to clarify how the claimed subject matter is distinguished over the prior art.

#### **The Rejections Under 35 U.S.C. §§ 102(e) and 103(a)**

All of the rejections rely on Ginter as the primary reference. We will now explain applicants' techniques, methods and systems and these are distinguished over the prior art cited in the Office Action.

As described in applicants' specification (see, e.g., Summary of the Invention), the applicants' technology provides a video distribution system that is beneficial to both consumers and movie distribution companies ("content providers") in that consumers are free to collect and archive movies at low or no cost and to later make a decision as to which movies to actually view—paying a viewing fee for those movies that are actually viewed. Consumers may view the videos at any time without restraints related to broadcasting schedules. New movie releases may be made available in sufficient quantities so that they are unlikely to be "sold out", as they frequently are in existing video rental stores. Moreover, content providers can benefit by receiving income every time a movie is played. The applicants' techniques may be carried out in such a way as to allow content providers to change pricing at any time, e.g.,

daily/weekly/monthly, to optimize price vs. consumer demand. This technology therefore offers advantages that the typical video distribution model (TV, movie channels, cable/satellite pay-per-view, DVD clubs and video rental) do not provide. Further, the applicants' techniques may be carried out under authority of content providers who control the distribution rights to movies. Under this authority, digital movie disks may be delivered to widely geographically dispersed distribution agents, and the distribution agents may produce copies of the movie disks, with each copy including an identification code that identifies the distribution agent who made the copy. The movie disk copies may be distributed by the distribution agents to customer households that have playback devices compatible with the disks. Customer households are permitted to view desired movies through their playback devices, and the playback devices communicate movie playback information that identifies each movie that has been viewed and a distribution agent who is responsible for the movie being distributed to the customer household. In this way, as dictated by the movie playback information, the content providers and responsible distribution agents may be compensated.

Upon entry of the present amendment, applicants' independent claim 41 will be directed to a "video distribution method performed by a video distribution system operator." The claimed method involves several parties, namely, a video distribution system operator, a content provider, a distribution agent and a consumer. Claim 41 recites specific acts performed by the "system operator":

- receiving video content from a content provider;
- providing player devices to a plurality of consumers . . .;
- effecting the production of video disks and the distribution of said disks to said consumers . . .; and
- after a video item is viewed by a consumer using a particular one of said player devices at a remote viewing location, receiving from the particular one of said player devices information identifying the video item viewed and at least one distribution agent associated with the video item viewed.

Moreover, claim 41 further recites that the player devices are "configured with proprietary circuitry for reading, decoding, decompressing and watermarking, and circuitry for

communicating with said video distribution system operator to permit the player device to notify said system operator when a particular video item is viewed by a consumer.” In addition, the claim recites that the video disks include “a plurality of video items recorded in an encoded and compressed format designed to be viewed by said consumers using only said player devices.”

The remaining independent claims recite similar aspects as summarized above.

For example, independent claims 60 and 70 are directed to systems. Claim 60 is directed to a system including a distribution network, at least one playback device, and a transmitting mechanism. Independent claim 70 is directed to a system including at least one playback device and a system controller. In both of these claims, the recited playback device is described as being “configured with proprietary circuitry for reading, decoding, decompressing and watermarking, and circuitry for communicating with a video distribution system operator to permit the playback device to notify said system operator when a particular recording is viewed by the at least one consumer.”

Independent claim 100 is directed to an apparatus for playing a copy of a digital data recording. This claim recites that the copy includes data identifying a distribution agent associated with the copy, and that the apparatus comprises a playback device comprising an identification mechanism configured to identify contents of, and the distribution agent associated with, the copy of the recording. In addition, the claim recites that the playback device “is configured with proprietary circuitry for reading, decoding, decompressing and watermarking, and circuitry for communicating with a video distribution system operator to permit the playback device to notify said system operator when a particular recording is viewed . . .” Claim 100 further recites a “transmitting mechanism . . . configured to communicate with the playback device and . . . to transmit from the playback device to a the system operator information identifying the contents of, and the distribution agent associated with, the copy of the recording played by the playback device . . . .”

In contradistinction, Ginter, Knight and Yuen fail to teach or suggest the combination of several important aspects of the applicants’ video distribution model described in the application and recited in applicants’ independent claims 41, 60, 70 and 100 (and therefore all of the pending

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claims): (A) player devices are configured with for reading, decoding, decompressing and watermarking, and circuitry for communicating with said video distribution system to permit the player device to notify said system when a particular video item is viewed; (B) video disks provided to consumers include “a plurality of video items recorded in an encoded and compressed format designed to be viewed using only said player devices”; and (C) each time recorded data is played at a remote viewing location, receiving from the remote viewing location, at a system operator location, information identifying the recorded data and at least one distribution agent for the recorded data. These features, in combination with the remaining aspects of applicants’ independent claims, are believed to distinguish the claimed subject matter over the cited prior art. The examiner is therefore respectfully urged to withdraw the rejections.

### **CONCLUSION**

Applicants believe that the present reply is responsive to each point raised by the Examiner in the Office Action and Applicants submit that the pending claims are in condition for allowance. Should the examiner find the claims as presented herein to be unallowable for any reason, applicants’ undersigned representative requests a telephone conference to discuss the basis for the examiner’s continued rejection. Likewise, should the examiner have any questions, comments, or suggestions that would expedite the prosecution of the present case to allowance, applicants’ undersigned representative would very much appreciate a telephone conference to discuss these issues.

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